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LETTER DATED 5 FEBRUARY 1998 FROM THE PERMANENT REPRESENTATIVE OF IRAQ TO THE UNITED NATIONS ADDRESSED TO THE SECRETARY-GENERAL

On instructions from my Government, I have the honour to transmit to you herewith a letter dated 5 February 1998 from the Minister for Foreign Affairs of the Republic of Iraq, Mr. Mohammed Said Al-Sahaf, as well as the appendix thereto, which contains the observations of the Iraqi party on the report that you submitted to the Security Council pursuant to paragraph 7 of Council resolution 1143 (1997), issued on 1 February 1998 as document S/1998/90.

I should be grateful if you would have this letter, and its annex and the appendix thereto, circulated as a document of the Security Council.

(Signed) Nizar HAMDOON
Ambassador
Permanent Representative

Annex

Letter dated 5 February 1998 from the Minister for Foreign Affairs of Iraq addressed to the Secretary-General

The Government of the Republic of Iraq has considered the report that you submitted to the Security Council pursuant to paragraph 7 of Council resolution 1143 (1997), issued on 1 February 1998 as document S/1998/90. You will find attached hereto our observations on the report.

I should be grateful if you would have this letter and the appendix thereto circulated as a document of the Security Council.

(Signed) Mohammed Said AL-SAHAF

Baghdad, 5 February 1998

Appendix

Observations of the Government of the Republic of Iraq on the report of the Secretary-General of the United Nations, issued on 1 February 1998 as document S/1998/90

Paragraph 6:

Paragraph 6 of the memorandum of understanding indicates that the Iraqi Government has sole responsibility for preparing the purchase and distribution plan. Paragraph 6 of the Secretary-General's report thus violates both the letter and the spirit of the memorandum, since it refers to a plan describing in detail the distribution of increased revenue among certain sectors, in accordance with modalities that take no account of the Iraqi Government's role and responsibilities.

We categorically reject this formula and wish to state that any addition to the purchase and distribution plan under phase III remains the sole responsibility of the Iraqi Government in accordance with paragraph 6 of the memorandum of understanding, which explicitly so indicates, and in accordance with the procedures established for phases I to III. Our position, moreover, was reaffirmed by the Iraqi Minister for Foreign Affairs in his letter dated 12 January 1998 to the Secretary-General. The Iraqi Government will not endorse any plan for the distribution of increased income if it is prepared by any party other than Iraq.

Paragraph 10:

We have reaffirmed on several occasions, in letters from the Iraqi Minister for Foreign Affairs to the Secretary-General and in other official communications, that the 180-day period referred to in paragraph 3 of Security Council resolution 986 (1995) began on the date on which the Secretary-General informed the Iraqi Government that he had approved the purchase and distribution plan, as was the case in phases I and II. Our position on that point remains unchanged. The Iraqi Government therefore refuses to be held responsible for the pause that occurred between the adoption of the Security Council resolution extending the memorandum of understanding and the approval of the purchase and distribution plan by the Secretary-General. If this delay had regrettable consequences (late arrival of humanitarian supplies), the Secretary-General should have referred to that fact and described the difficulties that arose in connection with the approval of contracts, whether in the form of the obstacles encountered or the methods followed for considering contracts for the purchase of foodstuffs, medicine and other supplies for essential needs. We have already referred to these problems in numerous letters to the Secretary-General and the Chairman of the Committee established by resolution 661 (1990), but we have never received any reply.

Paragraph 12:

The Iraqi Government rejects paragraph 12, which clearly violates the spirit of resolution 986 (1995) and of paragraph 4 of the memorandum of

understanding, which states that the arrangement provided for in the memorandum is an exceptional and temporary measure. Paragraph 12 indicates that the plan is ongoing and permanent.

Paragraph 18:

It goes without saying that the purpose of resolution 986 (1995) and of the memorandum of understanding is to meet the priority requirements of the Iraqi people, as indicated in paragraph 1 of the Secretary-General's report, hence the need to ensure that all supplementary resources are used for that purpose. However, the tendency is to increase the funds used for administering the programme, which will unquestionably result in a reduction in the additional resources that should be allocated for the purchase of humanitarian supplies. The Iraqi Government therefore rejects the use of supplementary resources for achieving goals other than the humanitarian goals referred to in the resolution.

Paragraph 21:

(a) In our observations on paragraph 10, we reiterated that the pumping of oil should begin on the date on which the Secretary-General approves the purchase and distribution plan, as was the case in phases I and II. As we have already indicated, we reject that paragraph.

(b) With regard to the Secretary-General's proposal concerning the preparation of a single, ongoing purchase and distribution plan, we consider this proposal totally unacceptable. In our observations on paragraph 12, we pointed out that this proposal not only contradicts paragraph 4 of the memorandum of understanding but also has as its aim introducing the principle of a single, ongoing plan to take the place of implementation of paragraph 22 of resolution 687 (1991). The Secretary-General should have indicated that Security Council resolution 986 (1995) was adopted to meet temporary humanitarian requirements and that efforts should be made to implement, as rapidly as possible, paragraph 22 of resolution 687 (1991), as a first step towards lifting the embargo imposed against Iraq.

Paragraph 25:

The Iraqi Government rejects implementation by the special agencies of projects in the 15 governorates under the memorandum of understanding, because project implementation falls within the sovereignty and competence of the Iraqi Government. The purchase and distribution plan should have a single goal: ensuring the supply of goods, equipment and other articles in accordance with the plan.

Paragraphs 26, 27 and 28:

We were very surprised to note that paragraphs 26, 27 and 28 deal with the electricity sector with great enthusiasm and in great detail but only as regards the three northern governorates (Dahuk, Erbil and Sulaymaniyah) and that for unacceptable reasons they make no reference to the other governorates of Iraq. The issue of electricity should have been dealt with on a national basis, in particular because Iraq has a single distribution system. Moreover, what should

have been discussed is electricity generation, not distribution. On that particular point, we wish to stress that it is the Iraqi Government that is responsible for taking decisions relating to the electricity sector and setting priorities for the different governorates. As we have already indicated, the purchase and distribution plan is an exceptional and temporary measure whose sole aim is to meet urgent requirements and not to ensure the implementation, in the electricity sector, of projects with medium- and long-term consequences that fall within the competence of the Iraqi Government. In view of all these considerations, we categorically reject the conditions, proposals and estimated costs referred to in paragraphs 26, 27 and 28.

Paragraph 30

In a letter from the Minister for Foreign Affairs, we have already informed the Secretary-General of our comments on his report pursuant to paragraph 3 of Security Council resolution 1111 (1997), namely, that the issue of vulnerable groups lies outside the framework of the memorandum of understanding. It is the responsibility of the Republic of Iraq, which is playing its part and carrying out its responsibilities in a proper manner. We therefore see no need for this issue to be forcibly inserted into the memorandum of understanding. We reject any reference to or suggestion concerning the matter, since there are numerous cases and needs in a large number of fields which cannot be met other than by the complete lifting of the sanctions. The first step towards this is to implement paragraph 22 of Security Council resolution 687 (1991) as soon as possible. It cannot be done by means of selective measures or by interfering in the internal affairs of Iraq.

Paragraph 37

We have already stressed in paragraph 18 above that it has been decided that the monies available under the memorandum of understanding should be devoted to the provision of humanitarian goods and supplies and other essentials. The Government of the Republic of Iraq is entirely responsible for the setting-up of projects.

Paragraph 40

We affirm the need to implement the plan for the education sector put forward by the Government of the Republic of Iraq. This covers the provision of equipment and essential supplies for schools and laboratories, and any materials required for all levels of education, not the building of schools.

Paragraph 51

The Government of the Republic of Iraq reiterates its unconditional rejection of a single, ongoing distribution plan, since that contravenes the spirit and the letter of Security Council resolution 986 (1995) and the memorandum of understanding, which provided that this measure should be exceptional and temporary.

Paragraph 52

The Government of the Republic of Iraq stresses that it does not agree to any increased expenditure by United Nations agencies on administrative requirements, since the proposed increase is covered by the third stage of the memorandum of understanding, which has already set aside the necessary sums. Any such increase will be at the expense of the humanitarian goal of the resolution and the memorandum of understanding. Any increase in revenue is supposed to be devoted to humanitarian purposes, and not to be subjected to any form of deduction or used for additional administrative expenses.

Paragraph 55

The oil-pumping operations have been carried out in a steady manner and within the time-frame agreed upon with effect from the date of the Secretary-General's approval of the purchase and distribution plan. This is the course that has been followed in phases I and II. Therefore, if no increase has been approved, no oil will be pumped before Iraq has prepared a supplementary plan concerning the increase and the Secretary-General has approved that plan.

Paragraph 59

The Government of the Republic of Iraq reiterates yet again, as it has done on many occasions, its rejection of a single, ongoing purchase and distribution plan, since such a plan is in contravention of Security Council resolution 986 (1995) and the memorandum of understanding. We are surprised that the Secretary-General should make statements in this respect, regardless of the serious work that has been done in implementation of paragraph 22 of Security Council resolution 687 (1991) as the first step on the road to complete and comprehensive lifting of the sanctions.

Paragraph 61

(a) The United Nations programme has failed to ensure the needs of the three northern governorates of Dohuk, Irbil and Sulaymaniyah in the electricity sector from the points of view of priority and periods of preparation. These governorates have received only a small proportion of what was allocated to them in the three purchase and distribution plans, and we have proof of that. We therefore affirm that this activity is the absolute responsibility of the Government of the Republic of Iraq.

(b) This paragraph calls for the involvement of United Nations experts in identifying essential priority measures and their cost. The Government of Iraq stresses that the identification of needs in the electricity sector, and the purchase thereof, is the responsibility of Iraq, and we absolutely reject any alteration or breach of this concept.

Paragraph 63

The tendency apparent in this paragraph is completely divorced from the provisions of paragraph 6 of the memorandum of understanding. This stated that the Government of the Republic of Iraq should have responsibility for the

preparation of a purchase and distribution plan to be submitted to the Secretary-General of the United Nations for approval. The Government of the Republic of Iraq is therefore astonished that the Secretary-General, in his capacity as a sponsor of the memorandum of understanding, and being responsible for its proper legal and technical implementation, should make such a proposal and draw up plans as to what the Government of Iraq should undertake. This is unacceptable. We therefore affirm yet again the responsibility of the Government of the Republic of Iraq for the preparation of the plan and its submission to the Secretary-General. Consultations may then be held, in accordance with the practice adopted during the preparations for phases I to III. The provision of additional revenue does not give the Secretary-General the right to disregard the basic provisions that have been instrumental in the preparation of the previous plans.

Paragraph 64

This paragraph refers to the need for additional financial resources to halt the continuing deterioration in the health and nutritional status of the Iraqi people and in the relevant infrastructure, which has a direct impact on the worsening of the situation. However, we see that these additional resources will be subject to the deductions provided for in paragraph 8 of Security Council resolution 986 (1995) in addition to other increased expenditure, which will undoubtedly have negative effects on the capacity of the remainder of this revenue to meet the humanitarian goals for which the Secretary-General is calling. The Government of the Republic of Iraq therefore considers that these additional revenues should be exempt from any type of deduction, since the goal of the resolution is humanitarian. It is intended to meet the basic needs of the Iraqi people, not to provide additional sums to pay compensation or for administrative and other expenses. The Government of Iraq therefore totally rejects any increase in deductions made for compensation or administrative expenses.

Paragraph 66

The Government of the Republic of Iraq refuses to approve the allocations contained in annex I and the projects envisaged in addition to distribution plan III set forth in annex II. We reaffirm what we have stated in previous paragraphs as to the need to comply with paragraph 6 of the memorandum of understanding, which gave the Government of the Republic of Iraq exclusive responsibility for preparing the purchase and distribution plan. Any attempt to impose a particular course of action will be a clear breach of the provisions of this memorandum.